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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/718,578	11/24/2003	Michael Alan Morris	025265-270	1700
21839 7590 10/30/2007 BUCHANAN, INGERSOLL & ROONEY PC POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404			EXAMINER VARGOT, MATHIEU D	
			ART UNIT 1791	PAPER NUMBER
			NOTIFICATION DATE 10/30/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/718,578	Applicant(s) MORRIS ET AL.	
	Examiner Mathieu D. Vargot	Art Unit 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. Upon reconsideration, the prosecution of the case has been reopened.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art as set forth in the instant specification at page 2, line 21 through page 3, line 10 (ie, paragraphs 0008 and 0009 in the corresponding PGPub) and page 10, lines 3-12 (ie, paragraph 0038 in the PGPub) in view of Gupta et al (see col. 18, lines 41-56) and further in view of either of Reshef et al (see Fig. 2) and Houston et al (see col. 3, line 58 through col. 4, line 28; col. 10, lines 59-62).

The admitted prior art as set forth in paragraphs 0008 and 0009 indicate that “steeply curved lenses” have been contemplated in the art, but have never been popular and difficult to fabricate. Indeed, paragraph 0009 of the instant specification refers to instant Fig. 2, which clearly shows that a lens similar to the instant has been contemplated in the prior art—ie, one with a steeply curved front spherical surface and a high power. Essentially, the prior art fails to teach that the lens would be made by molding, cutting and edging so that the lens would be mounted in eyewear and the exact radius of curvature and hollow depth of the lens. Concerning the former, Gupta et al teaches that such is purely conventional in making a lens. It is submitted that one of ordinary skill in this art would realize that molding, back surface grinding to the desired prescription and

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edging of a lens are well known and conventional steps used to make virtually all lenses and that such would have been an obvious modification to the prior art. In other words, absent any evidence to the contrary, it is submitted **prime facie obvious that the known steeply curved lenses of the prior art would have been molded and finished by the method taught in Gupta et al.** Note that the indication in the specification of “difficulties in fabrication” would not be sufficient to obviate this combination. There simply is nothing of record to indicate that one of ordinary skill in the art would not have contemplated molding, grinding and edging to make the steeply curved lenses of the prior art. **Indeed, if they were not molded and finished, then how were they made?** Concerning the instant dimensions, it is submitted that these would have been obvious design parameters for the lens of the prior art dependent on the exact prescription and use of the lens. No criticality has been established for these parameters, and as shown in at least Reshef et al, they are not novel in and of themselves. To wit, Reshef et al (see Fig. 2) teaches the making of steeply curved lenses that are mounted in goggles, the lenses having a radius of curvature of 24.87 mm over the front surface (ie, less than the instant 35 mm). Given that the drawing is reasonably to scale, and it appears that it is, the hollow depth of the lens would be around 10 mm (ie, “at least 8 mm” as set forth in instant claim 1). Hence, it would appear that the instant lens dimensions are taught in Reshef et al. While Reshef et al may use the lenses in a non-corrective way—ie, very little power—see Table 1—it is clear that the **instant physical dimensions for a steeply curved lens are known in the art.** There is no evidence of record to suggest that one of ordinary skill in this art

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would not have made a prescription lens with such steeply curved characteristics, again depending on the exact use for the finished lens. Also, since the admitted prior art teaches steeply curved lenses with corrective power, it is not material that Reshef et al doesn't disclose a prescription lens as the lens is used for gogglewear. Houston et al also makes steeply curved lenses and teaches that these are made by molding and polishing—see the passages noted supra for this reference. Concerning instant claim 7, applicant's specification states that the two toroids are known in the art as to generate a back surface of a lens. Given that each are known it is submitted that the use of both to obtain an averaged toroid would have been obvious. It is further submitted that the cutting using a circular meridian toroid is also well known in the art and would have been an obvious way to provide for astigmatism correction. Gupta et al (see col. 1, lines 5-10) teaches that progressive lenses are known and such would have been an obvious addition to either the front or back surface of the lens of the prior art to facilitate both near and far-distance correction.

3.Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

In view of the new grounds of rejection, applicant's comments are to some extent not applicable. No doubt applicant will still stress that the prior art of Reshef et al is not applicable, since the reference is directed to goggle lenses, as is newly applied Houston et al. However, these arguments are not persuasive. One of ordinary skill in the lens art would realize from the admitted prior art that steeply curved lenses in general are known and that they probably would have been molded. Gupta et al discloses molding

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and cutting to make a lens, Reshef et al a steeply curved lens with the instant dimensions and Houston et al molding and polishing to obtain a generally steeply curved lens. It would have been obvious for one of ordinary skill in the art, desiring to make a steeply curved prescription lens, to employ molding and cutting methods to form such a lens as generally taught in Gupta et al and to form it with the dimensions shown in Reshef et al if such a shape for a prescription lens is desired. Again, there is no evidence to the contrary other than attorney argument that the instant method is not obvious. Obviousness only requires a reasonable expectation of success. Surely, if the instant method—ie, molding, cutting and edging-- is known, one of ordinary skill in the art would believe it reasonable that such would have been adapted to the making of the instant steeply curved lenses. Clearly, steeply curved lenses are known in the admitted prior art and a lens with the instant dimensions is taught in Reshef et al.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mathieu D. Vargot whose telephone number is 571 272-1211. The examiner can normally be reached on Mon-Fri from 9 to 6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Johnson, can be reached on 571 272-1176. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Vargot
October 23, 2007


Mathieu D. Vargot
Primary Examiner
Art Unit 1791

10/23/07